



MEMORANDUM

October 4, 2024

TO: MEMBERS, PORT COMMISSION
Hon. Kimberly Brandon, President
Hon. Gail Gilman, Vice President
Hon. Willie Adams
Hon. Stephen Engblom
Hon. Steven Lee

FROM: Elaine Forbes
Executive Director 

SUBJECT: Request Port Commission acceptance of Mission Bay Park improvements for Bayfront Park (P22) along Terry Francois Boulevard into the Port's Park system upon receipt of the San Francisco Public Works Determination of Completion.

DIRECTOR'S RECOMMENDATION: Approve the Attached Resolution No. 24-46

EXECUTIVE SUMMARY

On October 10, 2023, the Port Commission authorized an agreement between the Office of Community Investment and Infrastructure (OCII) and the Recreation and Parks Department (RPD) to transfer the operations and maintenance of certain parks on Port lands within the Mission Bay South Redevelopment Plan Area¹. On June 11, 2024, the Port Commission approved a Resolution that recommended the Board of Supervisors delegation of authority to the Port to accept certain Mission Bay Park Improvements into the Port's Park system.² On July 23rd, 2024 the San Francisco Board of Supervisors approved Ordinance No. 209-24, which the Mayor signed on August 1, 2024, delegating authority to the Port Commission to accept Mission Bay Parks P22, known as Bayfront Park, and P19 into the Port's Park system (*see **attachment 1, Bayfront Park (P22) location***).

¹ [Port OCII RPD Mission Bay Parks \(sfport.com\)](https://sfport.com)

² [Port Delegation of acceptance of certain Mission Bay Parks \(sfport.com\)](https://sfport.com)

The acceptance process for park improvements is an action by the Port that: 1) accepts an offer of park improvements for ownership of assets that are constructed consistent with approved plans; 2) dedicates the improvements for public use; 3) designates the land for park and open space purposes, and 4) accepts maintenance and liability for the Port.

Because the Port and City want to open the park for the public's enjoyment as soon as possible, the Port, San Francisco Public Works (SFPW), and Office of Community Investment and Infrastructure (OCII) propose an accelerated acceptance process. This accelerated acceptance process allows the park to be open and accepted; however, a few small "punch list items" will be delivered post-acceptance along with the contract close-out process including retention of construction.

To facilitate this opening, this action by the Port Commission conditions the acceptance of Bayfront Park (P22) acceptance upon Port receipt of SFPW's Determination of Completion (DOC).

STRATEGIC OBJECTIVE

Acceptance of Mission Bay Parks on Port lands supports the Port's Strategic Plan goals:

Sustainability:

Advance environmental stewardship to limit climate change and protect the Bay.

Equity:

Create a diverse, equitable, and inclusive organization and waterfront, and empower Black, Indigenous, and other People of Color (BIPOC) in Port operations and opportunities through equitable policies and practices.

Evolution:

Evolve the waterfront to respond to changing public and Port needs.

Engagement:

Engage constituents and the public on Port functions and activities.

BACKGROUND

In 1998, the Port Commission and Board of Supervisors approved the Redevelopment Plans for Mission Bay North and South³ which provide for, among other things, the development of parks on City lands, including both Port and non-Port lands. The parks were constructed on City and Port lands under the direction of the San Francisco Redevelopment Agency, which has been dissolved (and is now referred to as the "Former Agency"), and the lands are now under the land use jurisdiction of OCII. Park lands are leased to the master developer during construction until they are completed and accepted

³ See Board of Supervisors Ordinance No. 327-98 (Oct. 26, 1998) and Ordinance No. 335-98 (Nov. 2, 1998); as well as Port Commission Resolution Nos. 98-86 through 98-98.

by the City or the Port. At that point, OCII manages the parks under a lease with the City until the ground lease is terminated, which occurred for several parks in late 2023 through Board of Supervisor approval.

State Assembly Bills x1 26, 1484, 471, and Senate Bill 107 (collectively, “California Redevelopment Dissolution Law” or “RDL”) required OCII to dispose of the Former Agency’s real property interests. The California Department of Finance has approved a long-range property management plan for OCII that required, among other things, OCII to terminate its leasehold interests in the Mission Bay Parks. However, the State Department of Finance also acknowledged OCII’s continuing administration of CFD #5 maintenance funds, which are authorized under State authority (Mello-Roos Community Facilities Act of 1982, Gov’t Code § 53311 et seq.) separate from the RDL to be used for Mission Bay park maintenance and operations. For Mission Bay Parks under Port jurisdiction, OCII will continue to work order these funds to the Port for its use through the life of CFD #5, which expires in fiscal year 2043-44.

PARK ACCEPTANCE PROCESS

The Plans for each of the Mission Bay Parks on Port lands were developed in close coordination with the Port, San Francisco Public Works (SFPW), OCII, and the San Francisco Public Utilities Commission (SFPUC). SFPW reviewed and approved the actual park construction permits making certain that the park improvement plans met the necessary specifications required by each City agency. During construction, SFPW managed permit compliance and inspections of improvements with each agency providing oversight for respective details unique to each agency. When construction is complete, SFPW issues a Determination of Completion (DOC) that recognizes the park improvements are completed in accordance with the approved permits, meet City agencies’ specifications, and are ready for their intended use. A DOC also may identify punch list items which are minor elements of a particular public improvement design that remain outstanding after DOC that the developer still will need to complete. After DOC issuance, the City may proceed with the steps associated with accepting the public improvements for City (or Port) ownership, maintenance, and liability.

Port Acceptance of Bayfront Park (P22): 1) accepts the FOCIL-MB, LLC offer of improvements for ownership of Port Acceptance Items that are constructed consistent with approved plans, in accordance with California Government Code Section 66477.1; 2) dedicates these Port assets for public use; 3) designates the land for park and open space purposes only and 4) accepts the Port Acceptance Items for maintenance and liability purposes. Acceptance actions for Bayfront Park (P22) exclude assets in the park that the SFPUC will own and maintain and some minor encroachments under the control of the Golden State Warriors.

To accelerate the opening of the park so the public can enjoy it sooner, the Port, SFPW, and OCII have agreed to an accelerated acceptance process. Acceptance will occur upon SFPW’s issuance of the DOC; however, even after DOC issuance, the developer will need to complete certain punch list items and close out the construction contract. OCII and

SFPW will ensure that construction bonds and liens or other security will remain until the construction process is closed.

During the construction process, one of the subcontractors lost its license. SFPW will request the Developer to provide a \$50,000 Bond to cover outstanding contract payment. OCII approved the addition of another sub-contractor who is working to complete the outstanding work.

Acceptance of Mission Bay Bayfront Park (P22) relies on findings under the California Environmental Quality Act, and findings of consistency with the General Plan, the eight priority policies of the Planning Code, Section 101.1, and the Mission Bay South Redevelopment Plan. The Board of Supervisors made all these findings as part of its Ordinance No. 209-24 delegating the park acceptance process to the Port Commission.

NEXT STEPS

Port maintenance staff and the Port parks manager have been in close coordination with SFPW, OCII, SFPUC, and the contractor constructing the park to learn about the park systems and to prepare a maintenance and management plan. In addition, the Port has been exploring how to activate the park with events and for potential concessions on the site designed and permitted to accommodate a future restaurant within the park.

Upon acceptance, the Port will collaborate with the Mayor's Office, Supervisor Dorsey, OCII, SFPW, SFPUC, and the community on a ribbon cutting and opening event for the park as soon as possible. The construction warranty requires the contractor to maintain the landscaping for the first year, but the Port will undertake all other maintenance, and this will begin immediately upon acceptance.

Prepared by: David Beaupre, Deputy Director
Planning and Environment

Attachment 1: Mission Bay Bayfront Park (P22)

**PORT COMMISSION
CITY AND COUNTY OF SAN FRANCISCO**

RESOLUTION NO. 24-46

WHEREAS, Charter Section B3.581 vests the Port Commission with the power and duty to use, conduct, operate, maintain, manage, regulate, and control the Port area of the City and County of San Francisco; and

WHEREAS, In 1998 the San Francisco Board of Supervisors, and many other agencies including the Port, approved the Mission Bay Redevelopment Plans North and South, which included agreements between the San Francisco Redevelopment Agency and certain City agencies; and

WHEREAS, The San Francisco Office of Community Investment and Infrastructure (OCII) is required to divest its assets and management of public assets including parks within the Mission Bay South Redevelopment Area ("Mission Bay") consistent with the State of California's requirement associated with the dissolution of Redevelopment Law; and

WHEREAS, The Mission Bay South Redevelopment Plan Area and associated agreements, required that certain lands within Mission Bay South under the jurisdiction of the Port be improved and maintained by OCII using Tax Increment and Mello Roos funds and maintenance funds through a Community Facilities District (CFD #5); and

WHEREAS, The Mission Bay Redevelopment Plans anticipated that the parks on Port lands would return to the Port for maintenance and operations when the Mission Bay Plan is terminated or at an earlier date if OCII's lease over Parklands was terminated; and

WHEREAS, With the dissolution of Redevelopment Law, OCII and City agencies have agreed that OCII would terminate its lease over the parks, transfer jurisdiction to the San Francisco Recreation and Park Department or the Port depending on the park location, and continue to apply CFD#5 funds to operation and maintenance of the parks until the CFD expires in 2043-44; and

WHEREAS, Now that OCII no longer manages parks within Mission Bay, acceptance of park improvements on Port lands may be undertaken by the Port Commission subject to a delegation of this authority from the Board of Supervisors; and

WHEREAS, On June 11, 2024, the Port Commission approved a Resolution that recommended the Board of Supervisors delegation of authority to the Port to accept certain Mission Bay Park Improvements into the Port's Park system; and

WHEREAS, On July 23rd, 2024 the San Francisco Board of Supervisors approved Ordinance No. 209-24, which the Mayor signed on August 1, 2024, delegating authority to the Port Commission to accept Mission Bay Parks P22, known as Bayfront Park, and P19 into the Port's Park system; and

WHEREAS, The acceptance process for park improvements is an action by the Port that: 1) accepts an offer of park improvements for ownership of assets that are constructed consistent with approved plans; 2) dedicates the improvements for public use and designates the land for park and open space purposes, and 3) accepts maintenance and liability for the Port; and

WHEREAS, To accelerate the opening of the park so the public can enjoy it sooner, the Port, SFPW, and OCII have agreed to an accelerated acceptance process; and

WHEREAS, Acceptance will occur upon SFPW's issuance of the DOC; however, even after DOC issuance, the developer will need to complete certain punch list items and close out the construction contract; and

WHEREAS, OCII and SFPW will ensure that construction bonds and liens or other security will remain until the construction process is closed; and

WHEREAS, During the construction process, one of the sub-contractors lost its license. SFPW will request the Developer to provide a \$50,000 Bond to cover outstanding contract payment. OCII approved the addition of another sub-contractor who is working to complete the outstanding work; and

WHEREAS, Additionally, the City is asking the developer and OCII to ensure final payments for the completion of remaining punch list items, final contract payments are made, and that the contract is closed; and

WHEREAS, OCII, in a letter dated May 6, 2024, found that the City's actions related to the acceptance of Parks P22 are consistent with the Mission Bay South Redevelopment Plan; and

WHEREAS, The Planning Department, in a letter dated June 3, 2024, found that the City's actions related to the acceptance of Parks P22 are within the scope of the CEQA analysis for the Mission Bay South Redevelopment Plan and, on balance, consistent with the City General Plan and the eight priority policies of Planning Code Section 101.1; now, therefore, be it

RESOLVED, That the Port Commission relies on the Planning Department letter and Board of Supervisors Ordinance No. 209-24 for CEQA purposes and adopts the environmental findings as its own; and be it further

RESOLVED, That the Port Commission will (1) accept the FOCIL-MB, LLC offer of improvements for the ownership of the Port Acceptance Items that are part of the Park Improvements for Mission Bay Bayfront Park (P22) as acquisition facilities on behalf of the City based upon the SFPW issuance of a Determination of Completion of such Park Improvements, in accordance with California Government Code Section 66477.1; (2) dedicate the Park Improvements to public use; (3) designate the property on which the Park Improvements are located for park and open space purposes only; and 4) accept the Port Acceptance Items for Port maintenance and liability purposes, subject to the conditional warranties and guarantees for the park construction; and be it further

RESOLVED, That the Port Commission acceptance actions for Bayfront Park (P22) shall specifically exclude assets in the parks that the San Francisco Public Utilities Commission will own and maintain and a minor encroachment for the Golden State Warriors; and be it further

RESOLVED, That the Port Commission directs its Executive Director, in consultation with its legal counsel and SFPW, to take all other actions necessary to complete the acceptance of Bayfront Park, which shall include, but not be limited to, accepting the assignment of warranties and guarantees, approving the plat, legal description, and any official maps or diagrams associated with the park; and be it further

RESOLVED, That the Port will continue to receive CFD #5 funds from OCII to pay for the park maintenance and operations at Bayfront Park until the CFD's expiration in fiscal year 2043-44.

I hereby certify that the foregoing resolution was adopted by the Port Commission at its meeting of October 8, 2024.

Secretary

ATTACHMENT 1

Mission Bay Bayfront Park (P22) Location



Open Space

MISSION BAY OPEN SPACE

OCTOBER 2023

